

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK
FOR ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

**NOTICE TO BIDDERS
SPECIFICATION NO. 04-248**

The City of Lincoln, Nebraska intends to purchase and invites you to submit a sealed bid for:

**ANNUAL UNIT PRICE CONTRACT
FOR ON-CALL LAND SURVEY SERVICES**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon Wednesday, September 29, 2004 in the office of the Purchasing Agent, Suite 200, K Street Complex, Southwest Wing, 440 South 8th Street, Lincoln, Nebraska 68508. Bids will be publicly opened and read at the K Street Complex.

A copy of the request for proposal may be obtained from the Purchasing Division Web Site at: www.lincoln.ne.gov keyword: bid or by calling the Purchasing Department at 402/441-7410.

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division, prior to the time and date specified above. It is the bidder's responsibility to check that they have received all addendums to this bid.

**BID PROPOSAL FOR SPECIFICATION NO. 04-248
ANNUAL UNIT PRICE CONTRACT FOR ON-CALL LAND SURVEY SERVICES**

BID OPENING TIME: 12:00 NOON

DATE: September 29, 2004

I/We, the undersigned, have read the attached specifications and conditions required for this proposal, hereby propose to furnish services in accordance with these conditions on the following **unit price basis**.

Prices are to be held for one year, starting from date of award.

SCHEDULE I - Labor Cost

EMPLOYEE / CLASSIFICATION	RATE PER HOUR	NO. EMPLOYEES	% OVERHEAD	% PROFIT
Survey Project Manager				
Registered Land Surveyor				
Survey Crew Chief				
Survey Crew Member				
Survey Technician				
Engineering Technician				
Public Involvement				
Clerical				

SCHEDULE II - EXPENSES

DESCRIPTION OF CATEGORY	COST PER EACH
Travel, mile (car)	
Travel, mile (survey vehicle)	
Half size plots (each)	
Mylar half size plots (each)	
Computer (per hour)	
Miscellaneous expenses (plots, copies, reports, etc.)	

These Unit Price Proposals are offered by _____, hereinafter referred to as “bidder” or “Contractor”.

A Corporation organized and existing under the laws of the state of _____.
A Partnership doing business as _____.
An Individual doing business as _____.

BID SECURITY REQUIRED:

Yes _____ Amount: none
No X

Special provisions for Commodity Term Contracts are included with the specification document.
Bidders are urged to read the Special Provisions before completing the following sections of the Bid Proposal.

Contract Extension Renewal is an option:

Yes _____
No _____

TERM PRICE CLAUSE: BIDDER MUST CHECK A OR B

- (A) Bid prices firm for the full 12 month contract period: _____
(B) Bid prices subject to annual escalation/de-escalation: _____
(C) If (b) is checked, amount of escalation/de-escalation: _____

COMPANY REPRESENTATIVE responsible for the administration of this Agreement:

NAME: _____
TITLE: _____
PHONE NO. _____
email: _____
fax number: _____

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

**RETURN TWO (2) COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.
MARK OUTSIDE OF BID ENVELOPE AS FOLLOWS: SEALED BID FOR SPEC. 04-248**

COMPANY NAME

BY (Signature)

STREET ADDRESS or P.O. BOX

(Print Name)

CITY, STATE ZIP CODE

(Title)

TELEPHONE

(Date)

1. PURPOSE AND INTENT

- 1.1 The City of Lincoln, Nebraska intends to retain qualified firm(s) to provide on-call land surveying services on a Unit Price Contract basis.
- 1.2 Individual Unit Price Projects under the terms of this Contract will range from \$0.00 to \$50,000.
- 1.3 Unit prices being bid shall include costs of materials when needed, shipping, labor, tools, equipment, and mobilization.
- 1.4 No adjustments in unit prices being bid will be allowed on work awarded during the annual contract period.
- 1.5 The contract will be awarded for one year, starting from award date, with the potential of three additional one-year renewals.
- 1.6 Firms will be hired on an "as-needed" basis.
- 1.7 It is the intent to select a firm(s) based on qualifications, relevant experience, resource availability including quality assurances / quality control, and unit prices.
- 1.8 The City will rely on the firm to remain on schedule for all services rendered.
- 1.9 The City reserves the right to contract for additional services with another firm or utilize its own forces.
- 1.10 The contract will be available for use by any City Department, but mainly, the Public Works/Utilities Department, Engineering Services Division.

2. AVAILABLE INFORMATION

- 2.1 Any currently available benchmark, landbase, public utility, contours and aerial photographic information in Microstation format.
- 2.2 Any project specific information available at the time of survey services needed.

3. REQUIRED SERVICES

- 3.1 At least one registered land surveyor (RLS) must be on staff, but will not necessarily be needed for every project. This will be determined on a project-by-project basis.
- 3.2 Within 24 hours of the notice for services, a crew will be required on the job. However, the City recognizes that some jobs will have a longer mobilization time requirement than 24-hours and will be specified on a project-by-project basis.
- 3.3 During the 24 hour mobilization period, the firm will develop a scope of services and an estimate of hours needed to complete the work, to be submitted to the City for approval prior to start of services.
- 3.4 Services may include but not be limited to: horizontal and vertical control, construction staking, topographic surveys, right-of-way staking, establish right-of-way and/or easements, establish monuments, locate property pins and section corners, and locate utilities.
- 3.5 All collected data (electronic and hard copies) shall be submitted to the City.
- 3.6 Bidder must currently own necessary and proper tools, equipment, and software needed to perform required services. Bids will not be awarded to bidders who would purchase such necessary tools, equipment, and software contingent upon their being awarded the bid.

4. SUBMITTALS

- 4.1 Qualifications shall be on plain white paper, black ink, two (2) single sided pages, stapled in the upper left corner and include the following:
 - 4.1.1 Qualifications and number of staff available, including staff names, and the license number of the RLS.
 - 4.1.2 At least two current, non-City of Lincoln, references (must have completed work for in the past 2 years).

- 4.1.3 Management and organizational structure.
- 4.1.4 Quality assurance / quality control process and individual responsible.
- 4.2 All appropriate blanks shall be completed on the Bid Proposal. Any interlineations, alteration or erasure on the specification document shall be initialed by the signer of the bid.
- 4.3 Bid prices shall be submitted on the Form included in the bid document.
- 4.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 4.5 Submit two (2) signed copies of your bid and qualifications to the office of the Purchasing Agent, located at Suite 200, K Street Complex, 440 South 8 Street, Lincoln, Nebraska, 68508 **no later than the date stated in the Notice to Bidders.**

5. **AWARD OF CONTRACT**

- 5.1 In determining the low responsible bids, consideration may be given to the following factors:
 - 5.1.1 Ability, capacity and skill of the bidder to comply with the specifications and perform the work required by the contract.
 - 5.1.2 Character, integrity, reputation, judgement, experience and efficiency of the bidder.
 - 5.1.3 Ability of the bidder to perform the work within the time specified for each project.
 - 5.1.4 Previous and current compliance of the bidder with laws and regulations relating to the work.
 - 5.1.5 Quality of the bidder's performance of previous work.
 - 5.1.6 Cost of the Unit Price Proposal
 - 5.1.7 Any other information deemed relevant to the contract by the Owners.
- 5.2 Contracts resulting from bid proposals shall not be on an all-or-none basis, and may be awarded to several bidders based on price, scheduling, the ability to complete work on time, quality of work and previous inspection and acceptance of past projects.
 - 5.2.1 The Owners further reserve the right to analyze bid proposals in detail and to award contracts which the Owners believe to be in their best interest.
 - 5.2.2 The Owners may make any investigation deemed necessary to determine the ability of a bidder to perform in accordance with the specifications.
 - 5.2.3 The Owners reserve the right to reject any bid based on facts resulting from any investigation which indicates that a bidder is not properly qualified to perform the obligations of any resulting contract.

6. **CONTRACT AND INSURANCE**

- 6.1 Within fourteen (14) calendar days after the award of bid, the Contractor(s) must execute a written Unit Price Contract between the Contractor and the Owner, sample attached.
- 6.2 Also, within such time period the Contractor must furnish with the executed agreement a certificate of insurance in accordance with the attached "Insurance Clause to be used for All Unit Price Construction Contracts", name the City of Lincoln as named additional insured.

**UNIT PRICE CONTRACT
FOR ON-CALL LAND SURVEY SERVICES**

THIS CONTRACT, is made and entered into this ____ day of ____, 2004, by and between _____ hereinafter referred to as "Contractor"; and the City of Lincoln, Nebraska, hereinafter referred to as "Owner";

WHEREAS, the Owner wish to engage Contractor in accordance with the terms and conditions herein to provide the above referenced services; and

WHEREAS, Contractor desires to perform said services for the Owner in accordance with the terms and conditions herein provided; and

WHEREAS, the Owner has caused to be prepared, in accordance with law, specifications, plans, and other contract documents for said services and have approved and adopted said documents and have caused to be published an advertisement for and in connection with said services; and

WHEREAS, the Contractor in response to such advertisement has submitted to the Owner in the manner and at the time specified, a sealed bid proposal in accordance with the terms of said advertisement; and

WHEREAS, the Owner in the manner prescribed by law have publicly opened, read aloud, examined, and canvassed the bid proposals submitted in response to such advertisement, and as a result of such canvass have determined and declared the Contractor to be the lowest responsible bidder(s) for said services for the unit prices named in the Contractor's proposal, a copy of which unit price proposal is attached hereto and made a part of this Contract.

NOW, THEREFORE, in consideration of the amounts to be paid to the Contractor said services and the other conditions, covenants and agreements herein contained, the Contractor and the Owners have agreed and hereby agree as follows:

1. Rates.

- A. The Contractor agrees to provide the above referenced services in accordance with the labor (basic wage rate and all applicable fringe benefits), material, and equipment unit price rates which are set forth in the Contractor's Unit Price Proposal, attached hereto and incorporated herein.
- B. The Contractor further agrees that the rates set forth in the Unit Price Proposal shall remain in effect during the term of this Contract.

2. Term. The initial term of this Contract will be for a period of one year from the 1ST day of XXXXX, 2004, through the 30th day of XXXX, 2005, with an option by the Owners to renew the Contract for three additional one-year terms upon providing sixty days written notice to the Contractor prior to the expiration of the initial term of this Contract.

3. Amount of Work.

- A. No minimum amount of work is guaranteed by the Owners to any one Contractor by virtue of this Contract.
- B. In the event that any single project for the above referenced services exceeds the sum of Fifty Thousand Dollars (\$50,000), it is understood that the Owners will undertake a separate bid process for such project.

4. Termination.
 - A. The Owners reserve the right to terminate this contract for cause at any time during the term of the Contract upon default of the Contractor in providing the construction services in accordance with the terms and conditions contained herein.
 - B. The Owners shall provide ten days written notice to Contractor to correct any deficiencies prior to termination of the Contract.
 - C. The Owners reserve the right to terminate this contract in the event that the Owners do not appropriate sufficient funds for the continuation of the contract into the succeeding fiscal year.
5. Owner Inclusion. It is understood and agreed by the signing of this contract by all parties that the "Owner" shall be the City of Lincoln, Nebraska.
 - A. Wherever in the contract documents, specification, insurance, bonds and terms and conditions or any other documents which are part of the contract, a singular entity is referenced (i.e., "the City") it shall mean the "Owner"..
6. General Conditions. The City of Lincoln General Conditions, Reissued March 5, 1999, attached; and the City of Lincoln Standard Specifications For Municipal Construction are a part of this Contract, except as specifically amended for a specific project and as dependent upon the nature of the particular construction services to be provided pursuant to this Contract.
7. Non-Discrimination.
 - A. The parties agree that in connection with the carrying out of this project the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status.
 - B. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Such actions shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.
 - C. Any breach of this provision of the Contract shall be regarded as a material breach. The Contractor shall be required to insert a similar provision as this in all subcontracts for construction services to be covered by any project undertaken pursuant to this Contract.
8. Drug Free Workplace.
 - A. The Contractor agrees that in the performance of this Contract, neither the Contractor nor any employee of the Contractor shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by this Contract.
 - B. The Owners reserve the right to request a copy of the Contractor's drug free workplace policy.
 - C. The Contractor further agrees to include a provision similar to this statement in all subcontracts for construction services required pursuant to this Contract.

9. Contract Documents. The Contract Documents comprising this Contract shall consist of the following: Instructions and notice to bidders; the accepted Unit Price Proposal; the contract agreement and all associated schedules and attachments; the standard specifications; general conditions and any supplementary conditions thereto; and any addenda issued in connection with a particular project.
10. Independent Contractor. The parties understand that this contractual agreement shall not create an employer/employee relationship and the Contractor, his employees, and any person acting on behalf of the Contractor shall be deemed to be an independent contractor during the term of this Contract.
11. Insurance. The Contractor shall provide insurance in accordance with the Owners's standard insurance clause to be used for all Owners contracts which is hereby made a part of this Contract.
12. Indemnification.
 - A. The Contractor agrees to indemnify and hold harmless and defend the Owners and any of their officers, agents, servants, and employees from any and all claims resulting from injuries, including death, bodily injury, property damage, or any other losses arising out of or in connection with or in any way associated with the performance of the terms and conditions of this Contract.
 - B. The Contractor shall not be required to indemnify the Owners for any damage resulting from the sole negligence of the Owners or their employees.
13. Applicable Laws and Permits.
 - A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
 - B. See attached Schedule A for current codes in use relating to construction development in the City of Lincoln.
 - C. All permits required by the Owners for the performance of the work associated herewith shall be secured through the City's Department of Building and Safety and shall be paid for by each department/agency on a project-by-project basis.
14. Owners's Representatives. Departmental/agency representatives identified in attached Schedule B, or their designated representatives shall act as the Owners' agent responsible for the administration of individual projects undertaken pursuant to this Contract.
15. Warranty. Construction services performed by Contractor pursuant to the terms of this Contract shall be subject to a two-year warranty for materials and workmanship.
16. Contract Bonds.
 - A. Each Unit Price Project executed under the provisions of this Contract shall be bonded separately.
17. Exempt Sales Certificate.
 - A. The Owners shall furnish the Contractor with a Purchasing Agent Appointment and Exempt Sale Certificate Form for projects which involve work which are considered by the State of Nebraska as exempt from sales tax.
 - B. Certain projects undertaken pursuant to this Contract may not be sales tax exempt.

18. Quotations for Individual Unit Price Projects.

- A. Quotations shall be written on the Unit Price Quotation Form, Attachment 1, showing a breakdown on the contract unit prices for labor, overhead and profit.
- B. All quotations submitted on the Unit Price Quotation Form shall be considered "not to exceed" proposals.
- C. Owners reserve the right to request competitive quotes from two or more Unit Price Contractors in the same discipline for a "fixed lump sum" price and time completion quote at the discretion of each departmental/agency representative. The departmental/agency representative shall select the contractor with the most favorable price and/or completion date.
- D. If at any time there is a change to the project that affects the quotation, a Revised Unit Price Quotation Form shall be submitted by the Contractor and signed by the departmental/agency representative for that project. Extra work shall not proceed until authorized by the departmental/agency representative.

19. Use of Contractors. The Owners, in their sole discretion, shall determine which respective projects will be offered to any of the Unit Price Contractors which the Owners believe are in their best interests.

20. Use of Subcontractors. The Owners recommend, but do not require, the selection of subcontractors from the existing list of Unit Price Contractors.

21. Notice to Proceed.

- A. No work shall be done for the Owners under the contract unless a written Notice to Proceed has been issued by the appropriate departmental/agency representative.
- B. Contractor shall commence work as soon as reasonably possible on the date agreed to by the departmental/agency representative.
- C. Work shall be complete on or before the date set forth in the Notice to Proceed.

22. Invoices.

- A. All invoices for services performed pursuant to this Contract shall be submitted to the appropriate departmental/agency representative.
- B. Each project shall be invoiced separately.
- C. The Contractor's invoices shall include the job site location, date of project, and a fully itemized list of rates and quantities as established in the Contractor's Unit Price Proposal.
- D. Invoices shall be submitted for payment within thirty days of the date of project conclusion.

23. Assignment. This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the Owners.

24. Governing Law. This Contract shall be governed by and interpreted in accordance with the laws of the State of Nebraska.

25. Non Exclusive Relationship. The Contractor shall not necessarily be the sole contractor for the purpose of providing the services and material necessary to meet all the needs of the Owners. The Owners hereby expressly reserve the right, in their sole discretion, to enter into similar agreements with or purchase similar services from one or more providers.

A. In case of an emergency, after the Owners have contacted the Contractor and if the Contractor is unavailable or unable to perform the necessary services, the Owners reserve the right to contact other contractors.

CITY OF LINCOLN, NEBRASKA
UNIT PRICE QUOTATION FOR PUBLIC WORKS/UTILITIES, ENGINEERING SERVICES
 ANNUAL UNIT PRICE CONTRACT FOR ON-CALL LAND SURVEY SERVICES, 04-248

Date: _____

City Representative: _____ City Project Number _____
 Firm: _____ Representative: _____
 Address: _____
 Phone: _____ Email: _____
 Project Description: _____

Fill in the following tables. If an item does not apply, please do not make an entry in that column.

TIME OF COMPLETION

Estimated Start Date:	
Number of Days to Complete:	

SCHEDULE I - Labor Cost

Employee / Classification	Rate Per Hour	Total Hours	Total Labor Fee (A)	Overhead (B)	Total (A+B)	Profit (C)	Total Fee (A+B+C)
Survey Project Manager							
Registered Land Surveyor							
Survey Crew Chief							
Survey Crew Member							
Survey Technician							
Engineering Technician							
Public Involvement							
Clerical							
Total Labor:							

SCHEDULE II – EXPENSES

Description Of Category	Cost Per Each	Quantity	Cost
Travel, mile (car)			
Travel, mile (survey vehicle)			
Half size plots (each)			
Mylar half size plots (each)			
Miscellaneous expenses (plots, copies, reports, etc.)			
Total:			

TOTAL PRICE (NOT TO EXCEED): \$ _____

Firm Representative (Signature): _____

Approved By (City Representative): _____ Date: _____

C O N T R A C T A G R E E M E N T

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and the are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

Mayor

Approved by Executive or No. _____
dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

Name of Corporation

(Address)

ATTEST:

Secretary (SEAL)

By: _____
Duly Authorized Official

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

(Address)

By: _____
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Signature

IN WITNESS WHEREOF, the contractor and
the Owner do hereby
execute this contract:

Dated this ____ day of ____, 2004.

By:_____

Name (Print)

Signature

Title

INSTRUCTIONS TO BIDDERS

CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

1. BIDDING PROCEDURE

- 1.1 Bidder shall submit two (2) complete sets of the bid documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidder shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 1.5 A bid by a firm or organization other than a corporation must include the name and address of each member.
- 1.6 A bid by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Bids received after the time and date established for receiving bids will be rejected.

2. BIDDER'S SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated on the Proposal Form.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
 - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.

- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:

- 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
- 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

3. EQUAL OPPORTUNITY

- 3.1 Each bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Bidder shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code.
- 3.2 Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16).
- 3.3 The Equal Opportunity Officer will determine compliance or non-compliance with the City's Affirmative Action Policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

4. DATA PRIVACY

- 4.1 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 4.2 The bidder agrees to hold the City harmless from any claims resulting from the bidder's unlawful disclosure or use of private or confidential information.

5. BIDDER'S REPRESENTATION

- 5.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 5.2 Each bidder for services further represents that the bidder is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 7.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 7.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to the date and time for receipt of bids.
- 7.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 7.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

8. ADDENDA

- 8.1 Addenda are written instruments issued by the City prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 8.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 8.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 8.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 8.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

9. ANTI-LOBBYING PROVISION

- 9.1 During the period between the bid close date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the City Council or City Staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

10. BRAND NAMES

- 10.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 10.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 10.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number

from the specification document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.

- 10.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

11. DEMONSTRATIONS/SAMPLES

- 11.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 11.2 Such demonstration can be at the City delivery location or a surrounding community.
- 11.3 If bidder does not have an item in the area, it will be at the bidder's expense to send appropriate City personnel to the nearest location to view and inspect proposed item(s).
- 11.4 If items are small and malleable, and the bidder is proposing an alternate product, the bidder MUST supply a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

12. DELIVERY

- 12.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 12.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 12.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.

13. WARRANTIES, GUARANTEES AND MAINTENANCE

- 13.1 Copies of the following documents must accompany the bid proposal for all items being bid:
 - 13.1.1 Manufacturer's warranties and/or guarantees.
 - 13.1.2 Bidder's maintenance policies and associated costs.
- 13.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.
- 13.3 Bidder Warrants and represents to the City that all software/firmware/hardware/equipment /systems developed, distributed, installed or programmed by Bidder pursuant to this Specification and Agreement.
 - 13.3.1 That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data, during Leap years; and
 - 13.3.2 That all date sorting by the software /firmware/hardware/ equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by the City of the failure of any software/ firmware/

hardware /equipment /systems to comply with this Specification and Agreement, Contractor will, within 60 days and at no cost to the City, replace or correct the non-complying software/ firmware/ hardware/ equipment/ systems with software/firmware/ hardware/equipment/ systems that does comply with this Specification and Agreement.

- 13.3.3 No Disclaimers: The warranties and representations set forth in this section 13.3 shall not be subject to any disclaimer or exclusion of warranties or to any limitations of Licensor's liability under this Specification and Agreement.

14. ACCEPTANCE OF MATERIAL

- 14.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 14.2 Material delivered under this proposal shall remain the property of the bidder until:
- 14.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
- 14.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 14.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 14.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 14.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

15. BID EVALUATION AND AWARD

- 15.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 15.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 15.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 15.4 The bid will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the City, and as the City deems will best serve their requirements.
- 15.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the City.

16. INDEMNIFICATION

- 16.1 The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss or use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 16.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 16.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

17. TERMS OF PAYMENT

- 17.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

18. LAWS

- 18.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

19. AFFIRMATIVE ACTION

- 19.1 The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all bidders and encourages minority businesses and women's business enterprises to participate in our bidding process.

20. LIVING WAGE

- 20.1 The bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81.010 of the Lincoln Municipal Code. This wage is subject to change up or down every July.

SPECIAL PROVISIONS FOR COMMODITY TERM CONTRACTS

CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

1. ESTIMATED QUANTITIES

- 1.1 The quantities set forth in the specification document are approximate and represent the estimated requirements of the City for the contract period.
- 1.2 Items listed may or may not be inclusive of City requirements for this category.
- 1.3 Category items not listed, but distributed by bidder are to be referred to as kindred items. Kindred items shall receive the same percentage of discount or pricing structure as items listed in the specification document.
- 1.4 The unit prices and the extended total prices shall be used only as a basis for the evaluation of bids. The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the City shall be neither obligated nor limited to any specified amount. The City will, if possible, restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

2. CONTRACT PERIOD

- 2.1 The material shall be delivered as ordered during the contract period, beginning from the date of contract and ending one (1) year from that date, or as otherwise indicated on the proposal form.
- 2.2 The City is interested in a one (1) year contract, with the option to renew for additional one (1) year periods, not to exceed three (3) such renewals. Bidder must indicate on the proposal form if extension renewals are an option. By mutual consent of both parties it is understood and agreed that the contract may be renewed only at the same prices and/or under the same conditions governing the original contract; and any request for an increase in price or a change in the contract conditions shall be interpreted as a request not to renew the contract at the end of the current contract period.

3. BID PRICES

- 3.1 Bidders must state on the proposal form if the bid prices will remain firm for the full contract period; or if the bid prices will be subject to escalation/de-escalation.
- 3.2 Escalation/De-escalation Clause: In the event that prevailing market conditions warrant an adjustment in bid prices contained in the contract, the following escalation/de-escalation clause shall be the only clause applicable or acceptable to the City:
 1. Contractor shall give written notice to the Purchasing Agent of any proposed changes from contract prices not less than thirty (30) calendar days prior to the effective date of said price changes.
 2. Such notice must be accompanied by a certified copy of the supplier's advisory or notification to the contractor of price changes.
 3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
 4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.

5. Approved price changes are not applicable to orders already issued and in process at time of price change.
6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.
7. The Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interests of the City.
8. If in the opinion of the Purchasing Agent any proposed increase is found unacceptable, the Purchasing Agent reserves the right to cancel the contract upon thirty (30) calendar days written notice.
9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Contractor will put the Purchasing Agent on the mailing lists for such publication so that the Purchasing Agent can monitor said changes. Such membership will be at no cost to the City.

4. CONTRACT AWARD NOTIFICATION

- 4.1 The Purchasing Division will issue a Contract Award Notification to all successful bidders. Such contract award notification will incorporate the City's specifications, and may incorporate the bidder's specifications.
- 4.2 No action need be taken by the contractors at time of receipt of such Contract Award Notification.
- 4.3 Orders for materials will be made as needed by the various City Departments.

5. QUARTERLY REPORT

- 5.1 The contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.
- 5.2 Such quarterly report shall itemize the following information:
 1. Each ordering department.
 2. Items and quantities purchased by department.
 3. Total dollar amount of purchases by department.

INSURANCE CLAUSE TO BE USED FOR ALL CITY CONTRACTS

The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the negligence of the City of Lincoln, Nebraska.

Contractor shall not commence work under this contract until he has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any sub-contractor to commence work on his subcontract until all similar insurance required of the sub-contractor has been so obtained and approved.

A. Worker's Compensation Insurance and Employer's Liability Insurance

The Contractor shall take out and maintain during the life of this contract the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance in this state covering all his employees, and in the case of any work sublet, the Contractor shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. The Contractor shall take out and maintain during the life of this contract, Employer's Liability Insurance with a limit of \$100,000 in an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each of his subcontractors similarly to maintain common law liability insurance on his employees.

State	Statutory
Applicable Federal	Statutory
Employer's Liability	\$100,000

B. General Liability Insurance

1. The Contractor shall maintain during the life of this contract, General Liability Insurance, naming and protecting him and the City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) bodily injury, including wrongful death, (b) personal injury liability, and (c) property damage which may arise from operations under this contract whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

A. Bodily Injury/Property Damage	\$1,000,000 each Occurrence \$2,000,000 Aggregate
B. Personal Injury Damage	\$1,000,000 each Occurrence
C. Contractual Liability	\$1,000,000 each Occurrence
D. Products Liability & Completed Operations	\$1,000,000 each Occurrence

2. The General Liability Insurance required by the preceding paragraph shall include the following extensions of coverage:

- (a) The coverage shall be provided under a Commercial General Liability form or similar thereto.
- (b) X.C.U. Coverage - if the contract requires any work procedures involving blasting, excavating, tunneling or other underground work, the liability coverage shall include Standard Blasting or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverage commonly referred to as XCU Property Damage Liability.
- (c) The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
- (d) Contractual Liability coverage shall be included.
- (e) Products Liability and/or Completed Operations coverage shall be included.
- (f) Personal Injury Liability coverage shall be included.

C. Automobile Liability Insurance

The Contractor shall take out and maintain during the life of the contract such Automobile Liability Insurance as shall protect him against claims for damages resulting from bodily injury, including wrongful death, and property damage which may arise from the operations of any owned, hired, or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage \$1,000,000 Combined Single Limit

D. Builder's Risk Insurance (For Building Construction Contracts Only)

Unless otherwise specified where buildings are to be constructed under this contract, the Contractor shall provide and maintain fire, extended coverage, vandalism, and malicious mischief insurance, covering such building in an amount equal to one-hundred percent (100%) of the contract amount (minimum), as specified herein.

Losses, if any, shall be made payable to the City of Lincoln and Contractor as their interest may appear. A Certificate of Insurance evidencing such insurance coverage shall be filed with the City of Lincoln by the time work on the building begins and such insurance shall be subjected to the approval of the City Attorney.

E. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City of Lincoln.

F. Certificate of Insurance

All certificates of insurance shall be filed with the City of Lincoln on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by the preceding Sections A, B, C, D, and showing the City of Lincoln as a named additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction of insurance coverage.